

{ STATE OF SOUTH CAROLINA }  
}  
{ COUNTY OF MARLBORO }

**ORDINANCE NO. 574**

AN ORDINANCE TO PROVIDE FOR THE GRANTING OF FRANCHISES TO OWN AND OPERATE WATER AND SEWERAGE DISPOSAL SYSTEMS WITHIN THE UNINCORPORATED AREAS OF MARLBORO COUNTY

**WHEREAS**, the Marlboro County Council (the “Council”) finds that providing water and/or sewer to the residences, commercial enterprises, industries, schools, churches and other water and/or sewer users is essential to the health and welfare and growth of Marlboro County (the “County”) and in the public interest;

**WHEREAS**, the Council further finds that proper distribution of water is important to insure fire protection to the public and the regulation of the distribution of water in the County to insure proper fire protection is in the public interest; and

**WHEREAS**, the Council finds that standards for the orderly delivery of water and sewer in the unincorporated areas of the County and the orderly construction of water and/or sewer distribution systems are necessary to the health, welfare and safety of the citizens of the County and in the public interest;

**Section I:** No person, public or private corporation including not-for-profit corporations or special purpose districts shall operate a water distribution system and/or sewerage disposal system without having been granted a franchise. No municipality shall operate a water distribution system and/or sewerage disposal system in any of the unincorporated areas of the County without having entered into a Service Agreement with the County approved by Resolution of the Council. For the purpose of effecting and managing the Council’s responsibilities under this Section, the Council shall establish exclusive or nonexclusive water/sewer service areas as provided herein.

**Section II:** Franchises are hereby granted to Marlboro Water Company and Wallace Water Company, not-for-profit corporations operating in the County (the “Corporation” or “Corporations”), to distribute, provide and sell water within the unincorporated areas of the County that each Corporation respectively was actually serving

by distributing and delivering water to customers on April 1, 2003 or that it had a protected federal right to serve pursuant to funding received from federal sources (as, for example, under 7 U.S.C. §1926(b)) as of the effective date of this Ordinance. In addition to the requirements imposed by the constitution, statutory law and regulations the Corporations must apply to the County for franchises to expand the water systems of the respective Corporations for the purpose of selling and distributing water to any unincorporated areas of the County not being served by the respective Corporations on April 1, 2003. The respective Corporations must be granted and enter into Franchise Agreements with the County upon such terms and conditions as the County and the respective Corporations may agree upon prior to either Corporation expanding into unincorporated areas of the County not being served by either Corporation on April 1, 2003. The County Council must approve each Franchise Agreement by resolution.

**Section III:** Municipalities providing water and sewerage disposal to unincorporated areas of the County on April 1, 2003, are “grandfathered” for the purposes of this Ordinance in the unincorporated areas of the County that the municipalities are now serving. Prior to the expansion by a municipality of its water distribution system and/or sewerage disposal system into unincorporated areas of the County not being served by April 1, 2003, the municipality must enter into a Service Agreement with the County upon such terms and conditions as the County and the municipality may agree upon prior to expanding into any unincorporated areas of the County not being served by the municipality on April 1, 2003. Service Agreements must be approved by Resolution of the Council.

**Section IV:** The County Administrator shall establish and maintain a record of all systems operated by the Corporations and the municipalities in the unincorporated areas

of the County as of April 1, 2003, including, but not limited to, the areas being served and when the service was commenced in each area. The Corporations and municipalities shall provide the information requested by the County Administration that is necessary for the County Administrator to fulfill the requirements of this Section.

**Section V.** Before the County Council will consider franchise requests, an application which meets the requirements established by the Council and/or the County Administrator including, but not limited to, maps, drawings, design analysis and other pertinent data to include applicant's name, service to be furnished and connection fees and rates applicable to the proposed service area and the area currently being served and the rates and connection fees in charges in the area currently being serviced.

**Section VI.** In the event any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word provision of this Ordinance shall be held invalid or unenforceable by any court of competent jurisdiction, that holding shall not invalidate or render unenforceable any other section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word provision of this Ordinance – the Council hereby declaring that it would have enacted this Ordinance, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may declare to be unconstitutional, invalid, or otherwise unenforceable or ineffective.

**Section VII.** The enforcement of the provisions of this Ordinance is vital to the protection of the public interest of the citizens of Marlboro County. To protect this public interest the County may seek injunctive relief in the Court of Common Pleas to insure compliance with and enforce of the provisions of this Ordinance and in addition recover

the costs of all actions brought to enforce this Ordinance including attorneys fees.

**Section VIII.** This ordinance shall be effective on the date of its adoption. The County Administrator and the County Attorney are directed to immediately provide notice of the passage and effectiveness of this Ordinance, together with a copy of this Ordinance, to each municipality, public service district, and not-for-profit water company providing or authorized to provide water or sewer service in Marlboro County, and to the United States Department of Agriculture, Rural Development Administration, the South Carolina State Revolving Funds for Water and Sewer, and other federal, state or private funding sources for such water in Marlboro County as may be known to the County Administrator and the County Attorney or sewer providers in Marlboro County as may be known to the County Administrator and the County Attorney.

**ADOPTED THIS 12<sup>th</sup> DAY OF June 2003.**

First Reading: May 1, 2003  
Second Reading: May 8, 2003  
Third Reading: June 12, 2003  
Public Hearing: June 12, 2003

**Ordinance was adopted June 12, 2003**  
**Susan E. Rivers, Clerk to Council**